IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 17343 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VINUBHAI MOMANBHAI BHARWAD & 2 - Petitioner(s)
Versus
VEER NARMAD SOUTH GUJARAT UNIVERSITY - Respondent(s)

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Appearance :
MR AMIT H NARANG for Petitioner(s) : 1.
MR DC DAVE for Respondent University.
DS AFF.NOT FILED (N) for Respondent(s) : 1.

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 13/09/2007

ORAL JUDGMENT

1. Heard the learned advocates appearing for the respective parties. In light of the view that the Court is inclined to take, Rule. Mr.D.C.Dave, learned advocate appearing for the respondent University is directed to waive service of Rule. With the consent of the learned advocates appearing for the respective parties the petition is taken up for final hearing.

2. It is the case of the petitioner that the petitioner is a student. It appears that there was leakage of certain examination papers for which criminal proceedings were initiated by the respondent-University, wherein the petitioner was also one of the co-accused. Vide communication dated 9.10.2006 issued by the Registrar of respondent-University the petitioner was informed that vide notification dated 7.10.2006, the respondent-University has debarred the petitioner from appearing in any University examination for a period of 10 years and from joining any affiliated college or recognized institutions of the respondent-University as the petitioner was found guilty of adopting unfair means at the examination which the petitioner took.

3. The principal grievance of the petitioner is that the

impugned order has been made without granting an opportunity of hearing before making the impugned order. Though the learned advocate for the petitioner has made various submissions on merits it is not necessary to enter into any discussion of the same. On behalf of the respondent-University the learned advocate submitted that though technically it could be stated that no opportunity of hearing was granted, the same was not necessary in light of the undertaking given by the petitioner while seeking permission to take examinations. He, therefore, urged that the grievance made by the petitioner was not warranted in light of the undertaking given by the petitioner.

4. As already stated hereinbefore, it is not necessary to discuss the merits of the contentions raised by either side. Once it is found that the impugned order was made in violation of principles of natural justice such an order cannot be justified. In the result, the impugned order is quashed and set aside. The respondent-University is directed to grant an opportunity of hearing to the petitioner within a period of eight weeks from today and take a fresh decision after taking into consideration the explanation tendered by the petitioner.

5. The petition is allowed in the aforesaid terms. Rule made absolute. There shall be no order as to costs.

Sd/-
(D.A. Mehta, J.)

m.m.bhatt.